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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Amendments to Part 65, Interstate)
Rate of Return Prescription Procedures) CC Docket No. 96-22
and Methodologies, Subpart G, Rate Base)

COMMENTS OF U S WEST COMMUNICATIONS, INC.

U S WEST Communications, Inc. ("U S WEST"), through counsel and pursuant to the Federal Communications Commission's ("Commission") Notice of Proposed Rulemaking in the above-captioned action,¹ files these comments in response to the issues presented therein by the Commission. In the NPRM, the Commission submits tentative conclusions on several issues. First, prepaid postretirement benefits recorded in Account 1410, Other Noncurrent Assets, should be included in the rate base. Second, the interstate portion of unfunded accrued postretirement benefits recorded in Account 4310, Other Long-Term Liabilities, should be excluded from the rate base. Finally, the Commission would extend exclusionary treatment to all items recorded in Account 4310.²

¹ See In the Matter of Amendments to Part 65, Interstate Rate of Return Prescription Procedures and Methodologies, Subpart G, Rate Base, CC Docket No. 96-22, Notice of Proposed Rulemaking, FCC 96-63, rel. Mar. 7, 1996 ("NPRM").

² Id. ¶¶ 30-34.

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U S WEST disagrees with the Commission's proposal to exclude from the rate base all items recorded in Account 4310 and selectively include items in Account 1410. Instead, U S WEST proposes that the Commission establish a guiding principle or policy which would apply to the items recorded in Accounts 1410 and 4310. All items which are comprised of investor supplied funds recorded in these accounts would be included in the rate base. All items which are comprised of zero cost funds in these accounts would be excluded from the rate base. Under such a policy, pre-paid postretirement benefits other than pensions ("OPEB") costs would be properly included in the rate base because they are funded by investors. Conversely, as zero cost funds, unfunded OPEB liabilities are properly excluded from the rate base.

The determination of the rate base and what is included and excluded has been the subject of litigation for many years. Dating as far back as Smyth v. Ames in 1898,³ the Supreme Court has been involved in determining the value of the rate base with its fair value and sunk capital arguments, "[w]hat the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience"⁴ And, although the "fair value" rule from Smyth was set aside in Federal Power Comm. v. Hope Natural Gas Co., 320 U.S. 591 (1944) ("Hope"), the Supreme Court continued to stress that a regulatory agency's rate-of-return order should be reasonable enough to ensure that regulated companies maintain financial integrity, attract any needed capital, and provide a fair return to the investors for

³ Smyth v. Ames, 169 U.S. 466 (1898) ("Smyth").

⁴ Id. at 547.

the risks they have assumed.⁵ These and other rulings⁶ provide the foundation for rate-of-return regulation and compel the Commission to provide a just and reasonable framework for what is to be included or excluded from the rate base.⁷

The framework and principles supplied by the Commission should be fairly broad-based and generally applicable across multiple accounting situations. The Commission should not limit the types of accounting entries that can be made to specific accounts unless there is an overriding reason or purpose for doing so. The Commission and the companies it regulates are better served when general guidelines are provided as to the expected treatment of certain types of accounting entries without restricting whole accounts. Competition and the changing marketplace require additional flexibility in future accounting structures and methodologies.

In the NPRM, the Commission has proposed to treat all items in Account 4310 as zero cost funds and exclude them from the rate base while at the same time selectively including items in Account 1410. A general policy of including investor supplied funds recorded in Account 4310 and Account 1410 in the rate base and excluding zero cost funded items would eliminate the need for costly, time-consuming

⁵ Hope, 320 U.S. at 603.

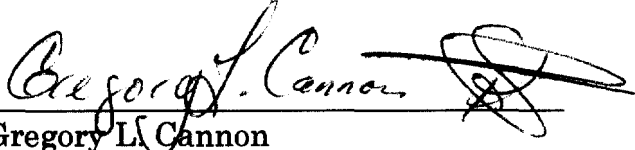
⁶ See, e.g., Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923).

⁷ While the Commission's implementation of Price Cap regulation has rendered many of the issues related to rate-of-return regulation moot for U S WEST and other large local exchange carriers ("LEC"), the rate-of-return calculation is still relevant to companies such as U S WEST that have selected an X-factor in their annual filings that includes a sharing obligation.

Commission proceedings to determine proper rate base treatment. U S WEST recommends that the Commission adopt a broad policy or interpretation that would dictate that investor supplied funds are to be presumptively included in the rate base and zero cost funds are to be presumptively excluded from the rate base.

Respectfully submitted,

U S WEST COMMUNICATIONS, INC.

By: 

Gregory L. Cannon
Suite 700
1020 19th Street, N.W.
Washington, DC 20036
(303) 672-2765

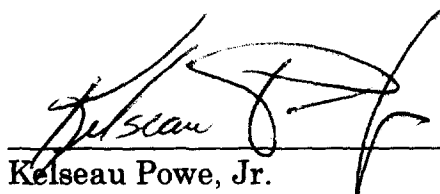
Its Attorney

Of Counsel,
Dan L. Poole

April 12, 1996

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 12th day of April, 1996, I have caused a copy of the foregoing **COMMENTS OF U S WEST COMMUNICATIONS, INC.** to be served via hand-delivery, upon the persons listed on the attached service list.


Kelseau Powe, Jr.

James H. Quello
Federal Communications Commission
Room 802
1919 M Street, N.W.
Washington, DC 20554

Reed E. Hundt
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, DC 20554

Susan P. Ness
Federal Communications Commission
Room 832
1919 M Street, N.W.
Washington, DC 20554

Rachelle B. Chong
Federal Communications Commission
Room 844
1919 M Street, N.W.
Washington, DC 20554

Regina M. Keeney
Federal Communications Commission
Room 500
1919 M Street, N.W.
Washington, DC 20554

International Transcription
Services, Inc.
Suite 140
2100 M Street, N.W.
Washington, DC 20037

Kenneth M. Ackerman
Federal Communications Commission
Room 812
2000 L Street, N.W.
Washington, DC 20036

Kenneth P. Moran
Federal Communications Commission
Room 812
2000 L Street, N.W.
Washington, DC 20036